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FM AMEMBASSY KABUL

TO SECSTATE WASHDC 1448 DEPARTMENT OF STATE A/CDC/AMR

INFO AMEMBASSY ISLAMABAD

AMEMBASSY NEW DELHI

AMEMBASSY TEHRAN

AMEMBASSY MOSCOW

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C O N F I D E N T I A L SECTION 1 OF 3 KABUL 1188

E. O. 11652: GDS

TAGS: PIKT, PGOV, AF

SUBJECT: THE LOYA JIRGAH: WHAT IT WAS ABOUT AND WHAT IT
MAY HAVE ACCOMPLISHED

REF: KABUL 792

1. SUMMARY. AFGHANISTAN'S LOYA JIRGAH (NATIONAL
CONSTITUENT ASSEMBLY) WHICH ENDED FEBRUARY 15 MAY
HAVE DONE MORE THAN APPROVE A CONSTITUTION AND (AS
EXPECTED) MAKE MOHAMMAD DAOUD THE AFGHAN REPUBLIC'S
FIRST ELECTED PRESIDENT. IT MAY HAVE TURNED A PAGE
OF HISTORY AND HELPED TO INSTITUTIONALIZE REALISTIC
NEW IDEAS AND AGENCIES BY WHICH THE COUNTRY CAN BE
GOVERNED. HOW DAOUD USES THE TWO AND ONE-HALF YEAR
TRANSITION PERIOD APPROVED BY THE LOYA JIRGAH BEFORE
THE FULL CONSTITUTION COMES INTO EFFECT WILL INDICATE
WHETHER THIS IS LIKELY TO BE THE CASE, OR WHETHER
THE PROCEEDINGS WERE A CYNICAL USE OF THE JIRGAH'S
TRADITIONAL POWERS TO LEGITIMIZE ONE MAN RULE
UNDER CONSTITUTIONAL GUISE. THE JIRGAH ITSELF

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WAS A NATIONAL TEST OF CONSIDERABLE SIGNIFICANCE,

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DEMONSTRATING UNITY UNDER A RECOGNIZED LEADER, CONSENT AND CONSENSUS -- BUT IT WAS NOT, ANY MORE THAN ITS TRADITION INTENDED IT TO BE, AN OCCASION FOR ROOT AND BRANCH DEBATE OF ISSUES. END SUMMARY.

2. THE WIND UP. THE LOYA JIRGAH WHICH CONVENED IN KABUL ON JANUARY 30 ENDED FEBRUARY 15 WITH A GREAT TURNOUT OF STREET CROWDS ON THE OCCASION OF MOHAMMAD DAUD'S SWEARING-IN BEFORE JIRGAH DELEGATES AS THE FIRST ELECTED PRESIDENT OF THE AFGHAN REPUBLIC. BUILD-UP FOR THIS MAJOR PUBLIC EVENT BEGAN TWO DAYS EARLIER WITH FINAL PASSAGE OF THE DRAFT CONSTITUTION AS AMENDED AND ON THE FOLLOWING DAY WITH DAUD'S ELECTION. CHIEFS OF DIPLOMATIC MISSIONS WERE INVITED TO ATTEND BOTH THE EMOTIONALLY CHARGED ELECTION AND INAUGURATION SESSIONS.

3. IN ADDITION TO ELECTING A PRESIDENT IN ITS FEBRUARY 14 SESSION THE JIRGAH VOTED A RESOLUTION OF GENERAL APPROVAL FOR THE ECONOMIC, SOCIAL, POLITICAL AND FOREIGN POLICIES OF THE DAUD REGIME SINCE ITS JULY 1973 INCEPTION. IN FOREIGN POLICY THE JIRGAH SPECIFICALLY ENDORSED CONTACTS BETWEEN LEADERS OF AFGHANISTAN AND PAKISTAN AND SUPPORTED SEEKING AN HONORABLE END TO THE "ONE POLITICAL DIFFERENCE" BETWEEN THE TWO COUNTRIES, A SOLUTION WHICH WILL GUARANTEE "THE LEGITIMATE RIGHTS OF OUR PUSHTUN AND BALUCH BROTHERS". (SEPTELS WILL ANALYZE BOTH THE FOREIGN POLICY ENDORSEMENT AND CONSTITUTIONAL CHANGES MADE BY THE JIRGAH WHEN FULL TEXTS OF DOCUMENTS BECOME AVAILABLE.)

4. SETTING AND CONTENT OF THE JIRGAH. IT IS DIFFICULT TO JUDGE THE 1977 JIRGAH IN "WESTERN" TERMS. THE JIRGAH IS UNIQUELY AN AFGHAN INSTITUTION, DATING BACK SEVERAL CENTURIES, MORE AN ASSEMBLING OF CLAN LEADERS AND A DEMONSTRATION
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OF HOSPITALITY THAN DEMOCRACY IN ACTION. WHILE EVERY MEMBER CAN -- AND TO AN EXTENT DOES -- PARTICIPATE, IT IS ALSO TRUE THAT DISCUSSION IS CIRCUMSCRIBED BY HOST-GUEST ETIQUETTE AND AN APPRECIATION OF THE STRUCTURE OF POWER. DURING ITS SEVENTEEN DAYS HOSPITALITY AND RHETORIC WERE AN IMPORTANT PART OF THE

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AFFAIR AS THEY ALWAYS HAVE BEEN FOR LOYA JIRGAHS. MEMBERS/GUESTS FELT THEMSELVES BOUND TO CONTRIBUTE TO DISCUSSIONS AND TO GIVE WEIGHT TO PROCEEDINGS; THEY DID NOT SEE THEIR ROLE AS ONE PERMITTING HEAD-ON CLASHES.

5. DELIBERATION WAS BY DAY. BY NIGHT THERE WAS A STEADY ROUND OF DINNERS AND ENTERTAINMENT, AND FOR THE FIRST FRIDAY HOLIDAY, TRIP TO JALALABAD FOR MORE EATING IN WARMER CLIMATE, WELCOMING CROWDS, SPEECHES AND A VISIT TO STATE FARMS. THOUGH DAUD WAS HOST, HE WAS FOR THE MOST PART ABSENT BUT WELL REPRESENTED. HIS CO-HOSTS WERE THE TWENTY-MEMBER CONSTITUTIONAL ADVISORY COMMISSION (KABUL 2105 OF 3/22/76), HIS CABINET AND THE CENTRAL COMMITTEE. THESE GROUPS WERE WITH THE DELEGATES ALMOST CONSTANTLY, THE COMMISSION TO ANSWER CONSTITUTIONAL QUESTIONS, THE CABINET TO ANSWER QUESTIONS ABOUT GOVERNMENT POLICY AND ALL THREE TO LOBBY AT SOCIAL OCCASIONS.

6. IN AGRICULTURE MINISTER AZIZULLAH WASEFI THE APPROXIMATELY 360 DELEGATES (134 APPOINTED DIRECTLY BY DAUD AND THE REMAINDER -- INCLUDING THREE FROM KABUL -- SELECTED FROM THEIR HOME COMMUNITIES) HAD A JIRGA CHAIRMAN WHO COMBINED FIRMNESS WITH GOOD HUMOR. WASEFI'S "POLITICO" IMAGE WAS BURNISHED TOO BY BI-LINGUAL ABILITY (IN DARI AND PUSHTU) AT WHAT WAS A THOROUGHLY BI-LINGUAL OCCASION. (IT WAS
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ASSUMED THAT ALL DELEGATES UNDERSTOOD BOTH PUSHTU AND DARI, BUT THAT INDIVIDUALS WOULD HAVE THEIR OWN PREFERENCE FOR WHICH LANGUAGE TO SPEAK.) TWELVE WOMEN WERE JIRGA DELEGATES -- FOUR "ELECTED" FROM KABUL, HERAT, SAMANGHAH AND KUNDUZ AND THE REMAINDER "SELECTED" FROM KABUL.

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7. DEBATE. WITHIN HISTORICAL AND CULTURAL LIMITATIONS DEBATE WAS LIVELY AND AT TIMES SEARCHING. GREAT AMOUNTS OF TIME WERE SPENT DEBATING LANGUAGE AND DARI AND PUSHTU LINGUISTICS. SOME AMENDMENTS APPEARED SPONTANEOUS, FROM THE FLOOR -- SUCH AS ONE REQUIRING THE GOVERNMENT TO PROVIDE FREE EDUCATION THROUGH UNIVERSITY LEVEL. OTHER AMENDMENTS HAD THE SMELL OF INTRA-GOVERNMENT INTRIGUE -- SUCH AS ONE REQUIRING THAT CABINET MEMBERS AND CERTAIN GOVERNMENT SERVANTS BE BORN OF AFGHAN PARENTS AND, IF MARRIED, HAVE SPOUSES BORN OF AFGHAN PARENTS. ONE HIGH RANKING MEMBER OF THE JUDICIARY, WE BELIEVE, LOBBIED FOR AND WON AN AMENDMENT GIVING THE NEW AFGHAN SUPREME COURT AUTHORITY TO WEIGH CONSTITUTIONALITY OF LAWS. THE DEPUTY FOREIGN MINISTER PROPOSED A DISCUSSION TO IMPROVE THE PRESIDENTIAL SUCCESSION PROVISIONS FOR THE INTERIM PERIOD UNTIL THE PARLIAMENT MEETS IN NOVEMBER, 1979.

8. HARD QUESTIONS WERE ASKED: ONE DELEGATE INQUIRED WHETHER IT WOULD NOT BE WISE TO CONVENE A NATIONAL ASSEMBLY ("MELI JIRGAH") MUCH SOONER THAN NOVEMBER OF 1979 AS CALLED FOR IN THE DRAFT CONSTITUTION, AND SOME 35 DELEGATE COLLEAGUES JOINED IN A MOTION BEFORE THE CHAIR ACTED TO KEEP DAOUD'S TIMETABLE ON
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TRACK. PERSISTENT QUESTIONS BY DELEGATES ABOUT EMERGENCY SUCCESSION DURING THE TRANSITIONAL PERIOD EVOKED -- AFTER DELIBERATE

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AND OBVIOUS FOOT DRAGGING -- AN AMENDMENT GIVING THE PRESIDENT DISCRETIONARY AUTHORITY TO ESTABLISH A TEMPORARY COUNCIL TO MAINTAIN THE ADMINISTRATION DURING ANY CRUCIAL PERIOD OF THE TRANSITION YEARS. THIS IN TURN PROVOKED SHARP QUESTIONS ON THE PART OF SEVERAL DELEGATES WHO WERE CONCERNED ABOUT THE EMERGENCY SUCCESSION AND AWARE THAT THE AMENDMENT PROPOSED BY THE GOVERNMENT OFFERED LESS THAN A FULL SOLUTION. (COMMENT: DAOUD MAY WELL FOR HIS OWN POLITICAL REASONS HAVE WANTED TO KEEP ALIVE THE AMBIGUITY OF EMERGENCY SUCCESSION PROVISIONS.) OTHER VERY SERIOUS MATTERS HOWEVER -- SUCH AS ECONOMIC PROVISIONS OF THE CONSTITUTION -- WERE PASSED WITH ASTONISHING SPEED AND NO DEBATE WHATEVER.

9. EFFICACY. THE LOYA JIRGAH OF 1977 WILL HAVE SEVERAL EFFECTS: IT PROVES TO AFGHANS IN THE COUNTRYSIDE THAT DAOUD IS IN CHARGE OF A "NORMAL" SITUATION -- THAT HE CONTROLS THE COUNTRY AND IS NOT AFRAID TO EXPOSE THIS CONTROL TO THE COMBINED FORCE AND MACHINATIONS OF NOTABLES FROM ALL OVER. (IT DOES NOT MATTER SO MUCH THAT THESE NOTABLES WERE HAND PICKED. A WEAK LEADER WOULD NOT DARE EVEN TO HAND PICK AND CONVEY SUCH A POTENTIALLY OUTSPOKEN ASSEMBLAGE.)

10. FURTHER, THE JIRGAH CO-OPTED SOME 360 MORE OR LESS PROMINENT PEOPLE INTO DAOUD'S CAMP. DELEGATES HAVE EATEN GREAT QUANTITIES OF THEIR HOST'S PILAU AND KEBAB AND DRUNK GALLONS OF HIS TEA MIXED WITH EXPENSIVE SUGAR, AND THEY WERE BESIDES SHOWN THE GREATNESS OF HIS CAPITAL AND HIS WORKS. (FILMS AND ENTERTAINMENT WERE TO A LARGE EXTENT STATEMENTS BY THE REPUBLIC OF ITS ACCOMPLISHMENTS.) DELEGATES HAVE BEEN SHOWN RESPECT AND TREATED WITH HONOR BY DAOUD'S LIEUTENANTS. THEY WERE GIVEN COMMEMORATIVE MEDALS. RULES OF HOSPITALITY, WE BELIEVE, WILL NOT ALLOW THESE PEOPLE LIGHTLY TO CRITICIZE THIS MAN AND HIS REGIME IN HOME COMMUNITIES. THEY HAVE BECOME, RATHER, HIS EMISSARIES.

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11. FINALLY, NOTABLE PEOPLE HAVE BEEN INVITED OFFICIALLY TO ADVISE AND CONSENT, AND EVEN THOUGH THE STAGE WAS CAREFULLY MANAGED, THEY WERE GIVEN NEVERTHELESS. THE DOCUMENT THIS GROUP APPROVED AND THE MAN IT ELECTED PRESIDENT NOW HAVE THE LEGITIMACY OF CONSENT ADDED TO OTHER KINDS OF LEGITIMACY (DEMONSTRATED MORAL AUTHORITY, REPRESENTATIVENESS, POWER) ALREADY ENJOYED BY DAOUD.

12. IF THE LOYA JIRGAH OF 1977 IS TARNISHED IT IS BECAUSE

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13. THE NEW ERA? BEFORE THE JIRGAH CONVENED AFGHAN OFFICIALS SPOKE OF IT AS A RARE HISTORICAL MOMENT -- PERHAPS AN UNPRECEDENTED ONE. AS THE OCCASION PASSES INTO HISTORY WE ARE INCLINED TO AGREE THAT THE JIRGAH WAS OF CONSIDERABLE SIGNIFICANCE -- ALTHOUGH THE ERA INITIATED IS NOT EXACTLY A NEW ONE AND ITS INSTITUTIONALIZATION OF A NEW ORDER MAY BE INCOMPLETE. IF A THEME IS SOUGHT TO DESCRIBE THE PUBLIC SPEECHES AND EVENTS OF THE PAST SEVERAL DAYS IT IS ONE OF THE TURNING OF A PAGE OF HISTORY, AN ATTEMPT TO PUT THE OLD ASIDE -- WITHOUT TRYING TO DISGUISE THE FACT THAT AFGHANISTAN IS NECK DEEP IN ITS OWN HISTORY AND THAT REAL PLANS FOR THIS NATION'S GOVERNANCE MUST TAKE THIS REALITY INTO ACCOUNT.

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14. FROM THIS POINT OF VIEW WE SEE THIS MOMENT OF AFGHAN HISTORY AS GENERALLY AN OCCASION FOR OPTIMISM AMONG THOSE WHO WISH THE AFGHAN PEOPLE WELL. THE NEW CONSTITUTION IS FAR FROM BEING A LIBERAL DOCUMENT; CYNICALLY REGARDED IT COULD BE DESCRIBED AS AN INSTITUTIONALIZATION OF AUTOCRACY. UNLIKE THE CONSTITUTION OF 1964 HOWEVER (WHICH WAS DESCRIBED TO US BY ONE OF ITS FRAMERS AS TOO MUCH "PIE IN THE SKY") THE DOCUMENT OF 1977 IS STERN AND REALISTIC. WHAT IT INSTITUTIONALIZES IS NOT JUST DAUD'S OWN WILL BUT THAT OF ALL STRONG MEN WHO MAY SUCCEED HIM IN THE BELIEF THIS FRACTIOUS SOCIETY REQUIRES A FIRM GUIDING HAND. GIVEN THIS COUNTRY'S POLITICAL DILEMMA IT IS EASY TO SEE HOW A REALISTIC STATESMAN MIGHT PREFER A WORKABLE STERN CONSTITUTION TO A LIBERAL ONE WITH UNATTAINABLE MEANS AS WELL AS ENDS.

15. THE CONSTITUTION COULD ALSO, IF APPLIED WITH THIS INTENT, ASSURE SOME BASIC HUMAN RIGHTS AND ESTABLISH A SATISFACTORY, RESPONSIVE POLITICAL MECHANISM. MEMBERS OF THE JIRGAH HAVE GONE HOME, LEAVING DAUD TO IMPLEMENT. THIS IMPLEMENTATION WILL BE VASTLY SIGNIFICANT. IS HIS NEW CONSTITUTION TO BE A ROAD TO GENUINE DEMOCRACY, AS DAUD HAS PROMISED, OR A HANDBOOK FOR ONE
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MAIN RULE? HOW DAUD PROCEEDS DURING THE LENGTHY TRANSITION PERIOD HIS CONSTITUTION GRANTED HIM TO FORM A NEW GOVERNMENT; A NEW

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PARTY, AND OTHER AGENCIES OF GOVERNMENT AND LAWS REQUIRED BY THE CONSTITUTION WILL INDICATE THE STYLE OF GOVERNMENT AFGHANISTAN WILL ULTIMATELY HAVE TO SETTLE FOR. HOWEVER DAUD USES THE MANDATE GIVEN HIM BY THE JUST CONCLUDED LOYA JIRGAH, THE FACT OF ITS HAVING BEEN GIVEN -- IN A TRADITIONAL ACCEPTABLE MANNER -- IS A MATTER OF SIGNIFICANCE.
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